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Sent: Tuesday, January 07, 2014 5:06 PM
To: Buckner, Edwin
Cc: Eric Shoults; Jerry McCalla; Ryan McCalla
Subject: Fw: EPA Information Request

CORRECTIONS TO
List of Violations
R3 Energy
Cottonwood Falls, Kansas

Kansas Authorized Regulations (KAR) 28-31-262 adopt 40 Code of Federal Regulations (CFR) 262 by reference. 40 CFR 262.11 requires a generator of solid waste to determine if the solid waste it generates is hazardous as defined in the regulations. On July 23, 2013, an EPA inspector observed various chemicals and materials stored at the R3 Energy facility that had the appearance of solid waste. The facility failed to make a hazardous waste determination on these wastes as required by the regulations. The inspector provided a list of these materials to the facility at the conclusion of the inspection as an attachment to her Notice of Violation (NOV). That list is replicated herein with pertinent additions.

1. 20 to 30 full 1 quart cans of biodiesel retain samples **RECYCLED IN PRODUCTION AND NOT IN WASTE STREAM.**
2. Approximately 1/3-full, 55-gallon drum of drying agent **USED IN PRODUCTION AND NOT IN WASTE STREAM.**
3. Laboratory Chemicals
 - a. 1-gallon jug acetone **USED IN PROCESS AND NOT IN WASTE STREAM.**
 - b. 1-gallon jug 50:50 IPA/toluene **USED IN PROCESS AND NOT IN WASTE STREAM.**
 - c. beakers of process samples **RECYCLED IN PRODUCTION AND NOT IN WASTE STREAM.**
 - d. Muriatic Acid **USED IN PROCESS AND NOT IN WASTE STREAM.**
 - e. Other laboratory chemicals **USED IN PROCESS AND NOT IN WASTE STREAM.**
4. Three polishing 230-gallon totes (~3/4, ~1/2 & ~3/4 full) **USED AS A VALUABLE COMPONENT IN PRODUCTION AND NOT IN WASTE STREAM.**

5. Approximately eight used filter socks in Process Area and filter socks in general trash. SOILED SOCKS TO BE CLEANED AND USED AS A VALUABLE COMPONENT IN PRODUCTION AND NOT IN WASTE STREAM.
6. Oil-Soap Mixes of Process Chemicals RECYCLED IN PRODUCTION AND NOT IN WASTE STREAM.
Three totes of soy/soap (1/2, 2/3, 3/4)
One tote soap labeled waste
7. Used Resin RECYCLED IN PRODUCTION AND NOT IN WASTE STREAM.
31 – 90 to 100 pound drums
Seven – 250 pound fiber drums
8. Paint related material on second floor THE PAINT IS UASBLE AND HAS BEEN REMOVED TO NEW PROJECTS.
 - a. One-gallon square cans
 - b. Five-gallon pails
 - c. One-gallon round cans
9. Glycerin shipped for dust control
10. Numerous puddles of material accumulating on the floor GENERAL HOUSEKEEPING AND HAS BEEN CLEANED.

Requested Information

R3 Energy
Cottonwood Falls, Kansas

On August 6, 2013, the facility emailed to the EPA inspector a response to the NOV issued during the inspection. That response was meant to identify the waste streams listed in the NOV that were hazardous waste and describe each waste stream's disposition. The EPA has questions regarding that response.

1. Biodiesel retained samples in one quart cans. R3 Energy identified this waste stream as "used oil," yet 40 CFR 279.1 defines used oil as any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities. It would appear that retained biodiesel samples do not meet this definition. If the waste stream is appropriately reintroduced into the production process, it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

2. Ethanox 4760. R3 Energy identified this waste stream as “used oil,” but, as above, it is not a used oil. If it is a valuable component of the final product, it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

3.a. Lab Chemicals – Acetone. If the waste stream is added back into the process as a useable component, it is no longer a waste. If the waste stream does not positively contribute to the process, you may not introduce it into the process merely as a means of disposal. Please modify your hazardous waste determination to accurately reflect how the waste was disposed of.

3.b. Lab Chemicals – IPA/Toluene 50/50. If the waste stream is added back into the process as a useable component, it is no longer a waste. If the waste stream does not positively contribute to the process, you may not introduce it into the process merely as a means of disposal. Please modify your hazardous waste determination to accurately reflect how the waste was disposed of.

3.c. Lab Chemicals – Beakers of process samples. R3 Energy identified this waste stream as “used oil,” but, as above, it is not a used oil. If it is a valuable component of the final product, it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

3.d. Lab Chemicals – Muriatic acid. If this waste stream is being used as a viable product, then it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

3.e. Lab Chemicals – Other chemicals in lab. R3 Energy identified this waste stream as “used oil,” but, as above, it is not a used oil. If it is a valuable component of the final product, it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

4. Polishing Totes. R3 Energy identified this waste stream as “used oil,” but, as above, it is not a used oil. If it is a valuable component of the final product, it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

5. Filter Socks. No comment.

6. Oil-Soap Mixes. R3 Energy identified this waste stream as “used oil,” but, as above, it is not a used oil. If it is a valuable component of the final product, it is no

longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

7. Resin. R3 Energy identified this waste stream as “used oil,” but, as above, it is not a used oil. If it is a valuable component of the final product, it is no longer a waste. Please modify your hazardous waste determination to accurately classify this waste stream.

8. Paint Related Material – Part A & B Epoxy Resin. As a waste determination, please do not indicate “N/A” since a hazardous waste determination is applicable to all generated solid waste. If you determine the material is not a waste, but rather a valuable commodity, please indicate such.

8. Paint Related Material – Latex Paint. Latex paint is not a universal waste regulated under 40 CFR 273. If the paint is usable and intended for use, please indicate that it is a product, not a waste.

9. Glycerin shipped for dust control. Often glycerin generated by biodiesel plants can be caustic or ignitable because of retained catalyst or methanol. Placing the glycerin on the ground constitutes disposal. Please determine if this glycerin was a hazardous waste.

10. Material Spilled Upon the Floor. This waste stream was not listed in the Notice of Violation, but it exists and a hazardous waste determination has not been made for it. Please identify the spilled materials and determine if they are hazardous wastes.

For all hazardous wastes introduced into the process, the hazardous waste must contribute to the process. Hazardous wastes introduced into the process that do not contribute to the process have received illegal treatment. Once generated, a hazardous waste must be appropriately managed as hazardous waste until it is introduced into the process. The generator has one year to recycle the hazardous waste in the process before the generator must obtain a storage permit.